

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 6, 2008
DEPARTMENT: PLANNING AND DEVELOPMENT
ITEM DESCRIPTION: SUP-28315 - APPLICANT: VIA BRASIL STEAKHOUSE -
OWNER: FORT APACHE COMMONS PARK, LLC

**** CONDITIONS ****

The Planning Commission (5-0 vote) and staff recommend APPROVAL, subject to:

Planning and Development

1. If approved, Special Use Permit (SUP-13289) shall be expunged.
2. Conformance to all minimum requirements under LVMC Title 19.04.010 for Supper Club use, including parking requirements.
3. If approved, conformance to the Conditions of Approval for Rezoning (Z-0139-88 and Site Development Plan Review (SDR-1318) shall be required.
4. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. Approval of this Special Use Permit does not constitute approval of a liquor license.
6. This business shall operate in conformance to Chapter 6.50 of the City of Las Vegas Municipal Code.
7. Prior to obtaining a Certificate of Occupancy, a barrier sufficient to prevent access to the bar area by minors shall be constructed between the bar area and the restaurant.
8. The live entertainment shall be ancillary (incidental) to the Supper Club. If the live entertainment becomes a principal use (more than 3 days a week), a Special Use Permit will be necessary.
9. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Special Use Permit for a proposed Supper Club at 1225 S. Fort Apache Road, Suite #100. The owner is proposing a 9,224 square-foot Brazilian steakhouse, with seating for 357. The proposed floor plan includes a lounge and bar area, customer waiting area with hostess stand, multiple dining areas with a centrally located salad bar, a wine cellar, and a platform for live entertainment. A condition has been added to address the concern of live entertainment. If the live entertainment becomes more than an incidental use, a Special Use Permit for a Night Club use will be necessary. An additional condition has been added to address the concern of the required barrier between the lounge and bar. Required by Title 19.04, this barrier is necessary to keep minors from entering the lounge and bar area.

The proposed location is part of a commercial shopping center (Fort Apache Commons Shopping Center), which adequately supplies the amount of parking required for this site. This shopping center includes a variety of uses: retail sales, medical and professional offices, personal services, and a tavern. The addition of a Supper Club within this commercial subdivision is compatible with the existing and future land uses as specified by the SC (Service Commercial) General Plan designation. Therefore, staff recommends approval.

The subject site is currently entitled for a Supper Club use, pursuant to the previous approval of Special Use Permit (SUP-13289). Special Use Permit (SUP-13289) was exercised on 01/08/07 via the issuance of business license #L21-00055-4-001281. That business license was placed into non-operational status on 03/10/08. Per Title 19.18.060, which states, "A Special Use Permit shall be void without further action if: a. The Special Use Permit was issued for alcoholic beverage use and such use ceases for one hundred and eighty days or more." The subject site is currently entitled for a Supper Club use until September 6, 2008.

The applicant is concerned with the timing in regards to obtaining a certificate of occupancy and an approved business license before Special Use Permit (SUP-13289) expires on September 6, 2008. The applicant decided to apply for a new entitlement before Special Use Permit (SUP-13289) expired.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/15/89	The City Council approved a request for Reclassification of Property (Z-0139-88) located on the west side of Fort Apache Road, between Sahara Avenue and Charleston Boulevard, From: N-U (Non Urban) under Resolution of Intent to R-PD4 (Residential Planned Development), P-R (Professional Office and Parking), C-1 (Limited Commercial), and C-V (Civic), TO: R-PD7 (Residential Planned Development), R-3 (Limited Multiple Residence), and C-1 (Limited Commercial); To: Single Family Residential, Multifamily Residential, Commercial and Mixed Use Commercial, which consists of Retail/Service Commercial, Office and Multifamily (multi-story) Residential. Staff and Planning Commission recommended approval.
04/13/00	The City Council approved a request for a Site Development Plan Review [Z-0139-88(40)] for a proposed 73,098 square foot commercial center on 8.37 acres adjacent to the southwest corner of Charleston Boulevard and Fort Apache Road. Staff and Planning Commission recommended approval.
02/05/03	The City Council approved a request for a Site Development Plan Review (SDR-1318) For a proposed retail addition to Forte Apache Commons on a portion of 8.76 acres located at the southwest corner of Charleston Boulevard and Fort Apache Road. Staff and Planning Commission recommended approval.
04/16/03	The City Council approved a request for a Master Sign Plan (MSP-1717) for an approved 58,040 square foot Retail Center adjacent to the west side of Fort Apache Road, approximately 600 feet south of Charleston Boulevard. Staff and Planning Commission recommended approval.
09/09/04	The Planning Commission approved (final action) a request for a Tentative Map (TMP-4913) for a One-Lot Commercial Subdivision on 5.70 acres adjacent to the west side of Fort Apache Road, approximately 530 feet south of Charleston Boulevard. Staff recommended approval.
07/19/06	The City Council approved a request for a Special Use Permit (SUP-13289) for a proposed Supper Club at 1225 South Fort Apache Road, Suite #100. Staff and Planning Commission recommended approval.
09/21/06	The Planning and Development Department administratively approved a request for a Minor Modification (MSP-15581) to an existing Master Sign Plan (MSP-1717) at 1205-1225 South Fort Apache Road. Staff recommended approval.
07/10/08	The Planning Commission voted 5-0 to recommend APPROVAL (PC Agenda Item #31/ne).
<i>Related Building Permits/Business Licenses</i>	
06/20/06	A building permit (#6004242) was issued for a tenant improvement at 1225 South Fort Apache Road, Suite #100. The permit was finaled on 11/28/06.

07/20/06	A building permit (#6004768) was issued for electrical work for a tenant improvement at 1225 South Fort Apache Road, Suite #100. The permit was finalized on 11/20/06.
07/20/06	A building permit (#6004767) was issued for mechanical work for a tenant improvement at 1225 South Fort Apache Road, Suite #100. The permit was finalized on 11/03/06.
07/20/06	A building permit (#6004766) was issued for plumbing work for a tenant improvement at 1225 South Fort Apache Road, Suite #100. The permit was finalized on 11/07/06.
07/20/06	A business license (#L21-00055-4-001281) was issued for a supper club at 1225 South Fort Apache, Suite #100. The business license was marked out of business on 03/06/08.
07/20/06	A business license (#R09-01391-5-001281) was issued for a restaurant, seating 45 or more at 1225 South Fort Apache Road, Suite #100. The business license was marked out of business on 03/10/08.
07/20/06	A building permit (#7002575) was issued for a sign, tag #10010, at 1225 South Fort Apache Road, Suite #100.
07/20/06	A business license application (#L21-91498-4-001648) was received by the City of Las Vegas Business and Finance Services department for a Supper Club at 1215 South Fort Apache Road, Suite #100. The business license is pending.
07/20/06	A business license application (#R09-91499-5-001648) was received by the City of Las Vegas Business and Finance Services department for a Restaurant Seating 45 or more at 1215 South Fort Apache Road, Suite #100. The business license is pending.
07/20/06	A building permit (#8000198) was issued for a sign, tag #10547, at 1225 South Fort Apache Road, Suite #100.
07/20/06	A building permit (#116552) was issued for a tenant improvement for a certificate of occupancy at 1225 S. Fort Apache Road, Suite #100.

Pre-Application Meeting

04/14/08	A pre-application meeting was held and the requirements for submitting a Special Use Permit (SUP) application for a Supper Club were discussed.
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Neighborhood Meeting

A neighborhood meeting was not required, nor was one held.
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Field Check

06/04/08	Staff performed a site visit that revealed an existing shopping center at the southwest corner of Charleston Boulevard and Fort Apache Road. The building and landscaping has been properly maintained, and there appeared to be sufficient parking for the center. Suite #100 was vacant.
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Details of Application Request

<i>Site Area</i>	
Net Acres	5.58

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Shopping Center	SC (Service Commercial)	C-1 (Limited Commercial)
North	Restaurant / Car Wash with Fuel Pumps	SC (Service Commercial)	C-1 (Limited Commercial)
South	Single Family Residential	ML (Medium Low) Density Residential	R-PD7 (Residential Planned Development – 7 units Per Acre)
East	Single Family Residential	SC (Service Commercial) and L (Low Density Residential)	C-2 (General Commercial) and R-PD8 (Residential Planned Development – 8 Units Per Acre)
West	Apartments	M (Medium) Density Residential	R-3 (Medium Density Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Shopping Center	58,040 sq. ft.	1:250	226	7	*405	*10	*Y
SubTotal			226	7	*405	*10	
TOTAL (including handicap)			233		*415		

**The proposed Supper Club will be located within the Fort Apache Commons Shopping Center.*

ANALYSIS

This request is for a Special Use Permit for a proposed Supper Club at 1225 S. Fort Apache Road, Suite #100. The applicant is proposing a Brazilian Steakhouse with a bar and lounge. This proposed Supper Club is comprised of 9,224 square-feet, with seating for 357. The proposed floor plan includes a lounge and bar area, customer waiting area with hostess stand, multiple dining areas with a centrally located salad bar, a wine cellar, and a platform for live entertainment. A condition has been added to address the concern of live entertainment. If the live entertainment becomes more than an incidental use, a Special Use Permit for a Night Club use will be necessary. An additional condition has been added to address the concern of the required barrier between the lounge and bar. Required by Title 19.04, this barrier is necessary to keep minors from entering the lounge and bar area.

The proposed location is part of a commercial shopping center (Fort Apache Commons Shopping Center), which adequately supplies the amount of parking required for this site. This shopping center includes a variety of uses: retail sales, medical and professional offices, personal services, and a tavern. The addition of a Supper Club within this commercial subdivision is compatible with the existing and future land uses as specified by the SC (Service Commercial) General Plan designation. Therefore, staff recommends approval.

- **Zoning**

The subject site is currently designated SC (Service Commercial), which is within the Southwest Sector of the Las Vegas Master Plan 2020. The site's C-1 (Limited Commercial) zoning district is in conformance with the Las Vegas Master Plan 2020, and the Supper Club use is permitted in that district with the approval of a Special Use Permit.

The C-1 (Limited Commercial) district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This proposed site is located along a primary thoroughfare (Fort Apache Road) and is part of a major retail corridor.

- **Use**

A Supper Club is defined by Title 19 as a restaurant and bar operation with alcoholic beverage sales in which:

1. The bar area is separated from the restaurant area by a barrier sufficient to prevent access to the bar by minors;
2. The actual seating available at all times within the restaurant area will accommodate at least one hundred twenty-five persons;

3. Alcoholic beverages are served in the restaurant area only in conjunction with the service of food;
4. Full-course meals are available during all hours the bar area is open to the public;
5. A cook and food server, other than a bartender, are available at all times the bar area is open to the public; and
6. The restaurant operation is the principal portion of the business.

The subject site is currently entitled for a Supper Club use, pursuant to the previous approval of Special Use Permit (SUP-13289). Special Use Permit (SUP-13289) was exercised on 01/08/07 via the issuance of business license #L21-00055-4-001281. That business license was placed into non-operational status on 03/10/08. Per Title 19.18.060, which states, "A Special Use Permit shall be void without further action if: a. The Special Use Permit was issued for alcoholic beverage use and such use ceases for one hundred and eighty days or more." The subject site is currently entitled for a Supper Club use until September 6, 2008.

The applicant is concerned with the timing in regards to obtaining a certificate of occupancy and an approved business license before Special Use Permit (SUP-13289) expires on September 6, 2008. The applicant decided to apply for a new entitlement before Special Use Permit (SUP-13289) expired.

- **Conditions**

Title 19.04.010 lists the following conditions for the Supper Club use.

1. No supper club use shall be located within 400-feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.
2. Except as otherwise provided in Requirement 3 below, the minimum distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed Supper Club which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed Supper Club. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term "property line" refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.

3. In the case of a Supper Club proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the Supper Club will be located, without regard to intervening obstacles, or nearest property line of a leasehold or occupancy parcel in which the Supper Club will be located, without regard to intervening obstacles.
 - b. In the case of a proposed Supper Club which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the Supper Club will be located, without regard to intervening obstacles.
4. When considering a Special Use Permit application for a Supper Club which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
- *5. In the O District, a Supper Club is permitted only as an accessory use.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.

*Any condition with an asterisk cannot be waived.

The proposed use meets the minimum requirements of a Supper Club use, and staff finds that public health, safety, and welfare will not be compromised. Therefore, staff recommends approval.

FINDINGS (SUP)

The following findings must be made for a Special Use Permit:

1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The proposed Supper Club is located within a commercial shopping center that includes a variety of uses: retail sales, medical and professional offices, personal services, and a tavern. The addition of a Supper Club within this commercial subdivision is compatible with the existing and future land uses as specified by the SC (Service Commercial) General Plan designation.

2. “The subject site is physically suitable for the type and intensity of land use proposed.”

The proposed site is within a commercial shopping center that was designed to accommodate a variety of uses, including a Supper Club use, and conforms to both the General Plan and Title 19 land use designations of the site with the approval of a Special Use Permit.

3. “Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”

The proposed Supper Club is located within the Fort Apache Commons Shopping Center that is adequately served by Fort Apache Road, a 100-foot Primary Arterial as defined by the Master Plan Streets and Highways.

4. “Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”

The proposed site is located within the Southwest Sector of the Las Vegas 2020 Master Plan and is designated SC (Service Commercial). The site is in the C-1 (Limited Commercial) zoning district, which is in conformance with the SC (Service Commercial) General Plan designation. The Supper Club use is permitted in that district with the approval of a Special Use Permit and will not compromise the public health, safety, and welfare or overall objectives of the General Plan.

5. The use meets all of the applicable conditions per Title 19.04.

The proposed Supper Club use meets all of the applicable conditions per Title 19.04.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 689 by City Clerk

APPROVALS 1

PROTESTS 3